

House of Representatives, April 2, 1998. The Committee on Judiciary reported through REP. LAWLOR, 99th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PROBATE COURTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-92 of the general
2 statutes, as amended by section 2 of public act
3 97-90, is repealed and the following is
4 substituted in lieu thereof:
5 (a) Each person who is a judge of probate at
6 any time during any calendar year shall file with
7 the Probate Court Administrator on or before March
8 first of the succeeding year a sworn statement
9 showing the actual gross receipts and itemized
10 costs of his office and the net income for each
11 such calendar year. If such person ceases to hold
12 office, he shall also file with the Probate Court
13 Administrator, on or before March first of the
14 second and third years next following, a sworn
15 statement showing his net income from his former
16 office for the first and second calendar years
17 next following the calendar year in which he
18 ceased to hold office. At the time of filing, each
19 such person shall pay to the State Treasurer as
20 hereinafter provided the sum required by this
21 section, less sums previously paid to the State
22 Treasurer on account. Payment shall be credited by

23 the State Treasurer to the fund established by
24 section 45a-82.

25 (b) The personal representative of each
26 person who holds the office of judge of probate,
27 at any time during any calendar year, and dies
28 while in office, or within twenty-four months
29 after ceasing to hold office, shall file with the
30 Probate Court Administrator, on or before March
31 first next following such death, a sworn statement
32 showing the actual gross receipts and itemized
33 costs of the decedent's office for the preceding
34 calendar year and the decedent's net income from
35 that office for such calendar year. The personal
36 representative shall file with the Probate Court
37 Administrator on or before March first of the
38 second year following said death a sworn statement
39 showing the net income to the decedent's estate
40 from such office for the preceding calendar year.

41 (c) Each judge of probate or personal
42 representative except a judge of probate who is
43 Probate Court Administrator shall at the time of
44 filing such returns pay to the State Treasurer to
45 be credited to the fund established by section
46 45a-82, a percentage of the annual net income from
47 such office based on the following table IN WHICH
48 THE PERCENTAGE APPEARING IN THE LEFT COLUMN SHALL
49 FIRST BE MULTIPLIED BY THE MINIMUM ANNUAL
50 COMPENSATION OF A HIGH VOLUME COURT AS PROVIDED IN
51 SUBSECTION (k) OF THIS SECTION, AS IN EFFECT ON
52 THE FIRST DAY OF JULY OF THE CALENDAR YEAR FOR
53 WHICH AN ASSESSMENT IS DUE PURSUANT TO THIS
54 SECTION, THE PRODUCT OF WHICH SHALL THEN BE
55 MULTIPLIED BY THE APPLICABLE PERCENTAGE APPEARING
56 IN THE RIGHT COLUMN:

57	[First \$10,000	\$1 nominal
58	Next \$ 5,000	3%
59	Next \$ 5,000	6%
60	Next \$ 5,000	10%
61	Next \$ 5,000	15%
62	Next \$ 5,000	25%
63	Next \$ 5,000	35%
64	Next \$ 5,000	50%
65	Next \$ 5,000	65%
66	Next \$ 5,000	80%
67	Next \$ 5,000	85%
68	Next \$20,000	90%
69	Excess over \$80,000	

70 up to the maximum amount
 71 computed by the State
 72 Treasurer as provided
 73 below 95%
 74 All over the maximum amount
 75 computed by the State
 76 Treasurer as provided below 100%]

77 FIRST 20% OF THE COMPENSATION
 78 ASSESSMENT RATE OF A HIGH
 79 VOLUME COURT \$1 NOMINAL
 80 NEXT 6.67% 5%
 81 NEXT 6.66% 10%
 82 NEXT 6.67% 15%
 83 NEXT 6.67% 25%
 84 NEXT 6.66% 35%
 85 NEXT 13.34% 50%
 86 NEXT 33.33% 75%
 87 NEXT 33.67% 80%
 88 NEXT 66.67% 85%
 89 NEXT 133.33% 95%
 90 EXCESS OVER 333.33%, UP TO
 91 THE MAXIMUM AT 97.5% AMOUNT
 92 COMPUTED BY THE PROBATE COURT
 93 ADMINISTRATOR
 94 ALL OVER THE
 95 MAXIMUM AMOUNT COMPUTED AT
 96 100% BY THE PROBATE COURT
 97 ADMINISTRATOR.

98 As used herein, "maximum amount" shall mean
 99 the amount of annual net income from such office
 100 which, when applying the percentage payments set
 101 forth above, shall result in the judge of probate
 102 retaining as net compensation, after the payment
 103 of the above amounts, [a sum equal to the salary
 104 of a Superior Court judge who has served the
 105 maximum number of years for the highest salary
 106 provided in section 51-47. In any year during
 107 which the salary of a Superior Court judge in
 108 section 51-47 is increased, the State Treasurer
 109 shall compute and furnish to the Probate Court
 110 Administrator no later than sixty days prior to
 111 the effective date of such Superior Court judge's
 112 salary increase, the maximum amount over which any
 113 judge of probate shall pay one hundred per cent of
 114 the annual net income. Any such change in the
 115 maximum as a result of the change in the salary of

116 the Superior Court judge shall be effective on the
117 same date as the increase in the salary of the
118 Superior Court judge] NO MORE THAN THE PRODUCT
119 RESULTING FROM THE MULTIPLICATION OF SEVENTY-TWO
120 DOLLARS BY THE ANNUAL WEIGHTED-WORKLOAD OF THE
121 COURT, AS DEFINED BY REGULATIONS TO BE ADOPTED BY
122 THE PROBATE COURT ADMINISTRATOR PURSUANT TO
123 SUBDIVISION (3) OF SUBSECTION (b) OF SECTION
124 45a-77, R BUT NOT TO EXCEED THE COMPENSATION OF A
125 HIGH VOLUME COURT AS SET FORTH IN SUBSECTION (k)
126 OF THIS SECTION, PROVIDED THIS LIMITATION SHALL
127 NOT APPLY TO THOSE COURTS DESCRIBED IN SUBSECTION
128 (k) OF THIS SECTION. Such payment shall be deemed
129 to be a necessary expense of his office but shall
130 not be deductible from the gross income for the
131 purpose of determining net income of such office
132 under this section. NOTWITHSTANDING THE PROVISIONS
133 OF THIS SUBSECTION, THE ANNUAL MINIMUM
134 COMPENSATION OF A JUDGE OF PROBATE SHALL BE NO
135 LESS THAN THE PRODUCT RESULTING FROM THE
136 MULTIPLICATION OF FIFTEEN DOLLARS BY THE ANNUAL
137 WEIGHTED-WORKLOAD OF THE COURT, AS DEFINED BY
138 REGULATIONS TO BE ADOPTED BY THE PROBATE COURT
139 ADMINISTRATOR PURSUANT TO SUBDIVISION (3) OF
140 SUBSECTION (b) OF SECTION 45a-77, OR NO LESS THAN
141 THE JUDGE'S AVERAGE COMPENSATION FOR THE
142 THREE-YEAR PERIOD FROM JANUARY 1, 1996, TO
143 DECEMBER 31, 1998, BUT, IN NO EVENT SHALL THAT
144 MINIMUM COMPENSATION EXCEED THAT PROVIDED PURSUANT
145 TO SUBSECTION (k) OF THIS SECTION.

146 (d) (1) Any judge of probate who is the
147 Probate Court Administrator shall pay to the State
148 Treasurer, to be credited to said fund, one
149 hundred per cent of the annual net income from his
150 office during the period of time he serves as
151 Probate Court Administrator. (2) For the purposes
152 of this assessment, fees received after but earned
153 before his appointment as Probate Court
154 Administrator shall be subject to the assessment
155 set forth in the table in this section. Fees
156 received after such judge of probate ceases to be
157 the Probate Court Administrator but earned during
158 his term as Probate Court Administrator shall be
159 paid in full to the State Treasurer after the
160 deduction of the expenses of his office. (3) The
161 books and records of any judge of probate acting
162 as Probate Court Administrator shall be audited by
163 the Auditors of Public Accounts at the beginning

164 of his term as Probate Court Administrator and
165 thereafter at least annually during his term as
166 Probate Court Administrator and upon completion of
167 his term as Probate Court Administrator or as
168 judge of probate whichever occurs first. (4) A
169 judge of probate who is Probate Court
170 Administrator shall make no expenditure in his
171 court for salaries, equipment, or any other
172 expenditure exceeding the sum of one hundred
173 dollars in the aggregate, annually, without first
174 having obtained the approval of the Chief Court
175 Administrator.

176 (e) (1) On or before January thirty-first of
177 each year, each person required to make payment
178 under this section shall estimate such annual net
179 income and shall advise the Probate Court
180 Administrator thereof, upon such forms and
181 pursuant to such regulations as said administrator
182 shall promulgate. (2) Each person who takes office
183 as a judge of probate after February first of any
184 calendar year, as the result of death, retirement,
185 resignation or removal of the immediately previous
186 incumbent of that office, shall file his estimate
187 of annual net income with the Probate Court
188 Administrator and shall make the necessary payment
189 to the State Treasurer in accordance therewith not
190 later than sixty days after taking office.

191 (f) If, based upon such estimate, the amount
192 payable shall be less than one hundred dollars,
193 the payment thereof shall be made in one payment
194 on or before December thirty-first of the
195 applicable year. Otherwise, the amount payable
196 shall be made in four substantially equal
197 instalments payable on or before the last day of
198 March, June, September and December of the
199 applicable year, except that in the case of an
200 estimate filed pursuant to subdivision (2) of
201 subsection (e) of this section, the amount payable
202 under such estimate shall be made in substantially
203 equal instalments on such instalment payment dates
204 next following the timely filing of such estimate
205 in such year. The estimated payment may be amended
206 and changed at any time during the year in which
207 it is payable by increasing or decreasing the
208 amount. The amount of such increase or decrease
209 shall be paid for or adjusted in the instalment or
210 payment due at the time the estimated assessment
211 is next payable after such amendment. The Probate

212 Court Administrator may adopt regulations pursuant
213 to subdivision (1) of subsection (b) of section
214 45a-77 to carry out the intent of this subsection.

215 (g) Upon the completion of each calendar
216 year, and in any event on or before the first day
217 of March of the succeeding calendar year, each
218 person required to make payment under this section
219 shall make sworn report to the Probate Court
220 Administrator, upon forms prescribed by and
221 subject to regulations promulgated by the
222 administrator, of the following: (1) The gross
223 income received by virtue of such office; (2)
224 actual expenses incurred in connection with the
225 office; (3) the net income of such office prior to
226 the payment of the assessment instalments
227 hereinbefore provided; (4) the amount paid during
228 the preceding calendar year to the State Treasurer
229 on account of the foregoing estimate; and (5) the
230 amount of the difference, if any, between the
231 amount so paid and the amount actually due. This
232 report shall be open to public inspection.

233 (h) If the amount already paid was less than
234 the amount due, such person shall, on or before
235 March first of the succeeding calendar year, pay
236 to the State Treasurer the entire deficiency. If
237 the amount already paid was more than the amount
238 due, such person shall either, at his election and
239 pursuant to regulations promulgated by the State
240 Treasurer, be entitled to a refund of such excess
241 payment to be paid from the fund provided by
242 section 45a-82, or a credit in the amount of the
243 overpayment to be charged against the future
244 obligations of such person to said fund.

245 (i) (1) If any estimated quarterly payments
246 required to be paid pursuant to subsection (f) of
247 this section is less than one-fourth of seventy
248 per cent of the total assessment due for that year
249 or less than one-fourth of ninety-five per cent of
250 the assessment paid for the prior year, such
251 person shall be obligated to pay to such fund a
252 penalty of ten per cent of the amount of the
253 deficiency, except that the Probate Court
254 Administrator may waive such penalty for cause in
255 accordance with regulations adopted pursuant to
256 subdivision (1) of subsection (b) of section
257 45a-77. Any such penalty shall become payable upon
258 demand by the Probate Court Administrator, and be
259 due within thirty days after such demand, in

260 accordance with regulations promulgated by the
261 Probate Court Administrator, and shall be subject
262 to interest under subdivision (2) of this
263 subsection in the event of default in such
264 payment. (2) Any payments required under
265 subsection (f) or (h) which are not paid at the
266 applicable times prescribed in said subsections,
267 and any penalty payment required under subdivision
268 (1) of this subsection which is not timely paid,
269 shall incur simple interest at the rate applicable
270 under section 12-376 for delinquent payment of
271 succession and transfer taxes where no extension
272 has been granted, to be payable to the Treasurer
273 and to be added to the fund established under
274 section 45a-82. Any alleged delinquency of a judge
275 of probate in making payments as required under
276 this section shall be referred by the State
277 Treasurer to the Attorney General for such action
278 as the Attorney General deems necessary.

279 (j) (1) As used in this subsection and
280 subsections (c) to (i), inclusive, of this
281 section, for any calendar year, the term "actual
282 expenses incurred in connection therewith" may
283 include as an allowable deduction the amount of
284 any net operating loss for a prior calendar year
285 as provided in this section. (2) The term "net
286 operating loss" means the excess of itemized costs
287 and expenses of office allowed by this section
288 over the gross income. A net operating loss may be
289 deducted in the calendar year following the year
290 in which the net operating loss occurred, but (A)
291 if the net income of such subsequent year is not
292 sufficient to pay all of such net operating loss,
293 then the balance of such net operating loss may be
294 deducted in the second calendar year following
295 such net operating loss; and (B) if the net income
296 of such second calendar year is not sufficient to
297 pay all of the remaining net operating loss, then
298 the balance of such net operating loss may be
299 deducted in the third calendar year following such
300 net operating loss. In no event shall any such net
301 operating loss or part thereof be deductible for
302 any report beyond the third calendar year in which
303 it occurred.

304 (k) Notwithstanding the provisions of
305 subsection (c) of this section concerning
306 percentage payments, a judge of probate who is the
307 judge in a court of probate designated as a high

308 volume court shall be permitted to retain as net
309 compensation, before the payment of any amounts
310 due under sections 45a-34 to 45a-54, inclusive,
311 and 45a-75, the sum which shall be the greater of
312 (1) the net compensation resulting from the
313 application of the percentages in subsection (c)
314 of this section or (2) compensation earned after
315 payment of actual expenses of the office not to
316 exceed seventy-five per cent of the amount of the
317 salary of a Superior Court judge as determined in
318 accordance with subsection (a) of section 51-47 as
319 determined on July first of the calendar year for
320 which the assessments are being paid pursuant to
321 this section. If a judge of probate of a high
322 volume court leaves office during a calendar year,
323 or if a judge of probate of a high volume court
324 assumes office and serves during a portion of the
325 calendar year, the minimum net compensation
326 provided in this section shall be prorated in
327 accordance with the number of days served during
328 the calendar year as the numerator, and three
329 hundred and sixty-five as the denominator,
330 provided if the business of the court in a
331 calendar year does not produce sufficient income
332 with which to pay the minimum net compensation,
333 then payment for that year shall not be extended
334 to subsequent calendar years. For the purposes of
335 this subsection, "high volume court" shall mean a
336 court of probate which serves a district having an
337 estimated population of seventy thousand or more
338 persons as reported in the State Register and
339 Manual for the calendar year immediately preceding
340 (A) the year for which the judge was elected, (B)
341 the year in which such judge was elected or (C)
342 any year of the term of office of such judge. The
343 amount of assessment payable to the State
344 Treasurer under this section shall be reduced by
345 the amount necessary to provide to the judge the
346 minimum compensation to which such judge is
347 entitled under this section, and the estimates of
348 annual net income required in subsections (e) and
349 (f) of this section may be reduced accordingly.
350 Minimum compensation as provided herein shall only
351 be payable if all ordinary and necessary expenses
352 of the court are paid.

353 Sec. 2. Section 45a-20 of the general
354 statutes is repealed and the following is
355 substituted in lieu thereof:

356 When a three-judge court is appointed by the
357 Probate Court Administrator, said administrator
358 may pay from the fund authorized under section
359 45a-82 a per diem rate not to exceed [one] TWO
360 hundred FIFTY dollars for each judge that has been
361 cited in, other than the judge in whose district
362 the matter is being heard. Such payment shall be
363 made in accordance with regulations promulgated by
364 the Probate Court Administrator and shall be
365 included as income to the receiving judge under
366 section 45a-92.

367 Sec. 3. Section 1 of public act 97-87 is
368 repealed and the following is substituted in lieu
369 thereof:

370 Any judge of probate in office on or after
371 October 1, 1997, whose probate district is merged
372 with another district and who has not been elected
373 [after such consolidation] TO A TERM WHICH BEGINS
374 AT THE TIME OF, OR SUBSEQUENT TO, SUCH
375 CONSOLIDATION, (1) may elect to receive four years
376 of credited service, as defined in subdivision (2)
377 of section 45a-34 of the general statutes, as
378 amended by section 2 of [this act] PUBLIC ACT
379 97-87, (2) may elect to receive a reduction of his
380 retirement age of not more than four years
381 pursuant to subsection (a) of section 45a-36 of
382 the general statutes, as amended by section 3 of
383 [this act] PUBLIC ACT 97-87, or (3) may elect any
384 combination of subdivisions (1) and (2) of this
385 section, provided such combination shall not
386 exceed four years in total.

387 Sec. 4. Section 45a-98 of the general
388 statutes is repealed and the following is
389 substituted in lieu thereof:

390 (a) Courts of probate in their respective
391 districts shall have the power to (1) grant
392 administration of intestate estates of persons who
393 have died domiciled in their districts and of
394 intestate estates of persons not domiciled in this
395 state which may be granted as provided by section
396 45a-303; (2) admit wills to probate of persons who
397 have died domiciled in their districts or of
398 nondomiciliaries whose wills may be proved in
399 their districts as provided in section 45a-287;
400 (3) except as provided in section 45a-98a or as
401 limited by an applicable statute of limitations,
402 determine title or rights of possession and use in
403 and to any real, tangible or intangible property

404 that constitutes, or may constitute, all or part
405 of any trust, any decedent's estate, or any estate
406 under control of a guardian or conservator, which
407 trust or estate is otherwise subject to the
408 jurisdiction of the Probate Court, including the
409 rights and obligations of any beneficiary of the
410 trust or estate and including the rights and
411 obligations of any joint tenant with respect to
412 survivorship property; (4) except as provided in
413 section 45a-98a, AS AMENDED BY THIS ACT, construe
414 the meaning and effect of any will or trust
415 agreement if a construction is required in
416 connection with the administration or distribution
417 of a trust or estate otherwise subject to the
418 jurisdiction of the Probate Court, or, with
419 respect to an inter vivos trust, if that trust is
420 or could be subject to jurisdiction of the court
421 [on request] for an accounting pursuant to section
422 45a-175, provided such an accounting need not be
423 required; (5) EXCEPT AS PROVIDED IN SECTION
424 45a-98a, AS AMENDED BY THIS ACT, APPLY THE
425 DOCTRINE OF CY PRES OR APPROXIMATION; [(5)] (6) to
426 the extent provided for in section 45a-175, call
427 executors, administrators, trustees, guardians,
428 conservators, persons appointed to sell the land
429 of minors, and attorneys-in-fact acting under
430 powers of attorney created in accordance with
431 section 45a-562, to account concerning the estates
432 entrusted to their charge; and [(6)] (7) make any
433 lawful orders or decrees to carry into effect the
434 power and jurisdiction conferred upon them by the
435 laws of this state.

436 (b) The jurisdiction of courts of probate to
437 determine title or rights or to construe
438 instruments OR TO APPLY THE DOCTRINE OF CY PRES OR
439 APPROXIMATION pursuant to subsection (a) of this
440 section is concurrent with the jurisdiction of the
441 Superior Court and does not affect the power of
442 the Superior Court as a court of general
443 jurisdiction.

444 Sec. 5. Section 45a-98a of the general
445 statutes is repealed and the following is
446 substituted in lieu thereof:

447 (a) The Probate Court shall have jurisdiction
448 under subdivision (3), [or] (4) OR (5) OF
449 SUBSECTION (a) of section 45a-98, AS AMENDED BY
450 THIS ACT, only if (1) the matter in dispute is not
451 pending in another court of competent jurisdiction

452 and (2) the Probate Court does not decline
453 jurisdiction. Before the initial hearing on the
454 merits of a matter in dispute in which
455 jurisdiction is based on subdivision (3), [or] (4)
456 OR (5) OF SUBSECTION (a) of section 45a-98, AS
457 AMENDED BY THIS ACT, the Probate Court may, on its
458 own motion, decline to take jurisdiction of the
459 matter in dispute. Before the initial hearing on
460 the merits of such a matter, any interested person
461 may file an affidavit that such person is entitled
462 and intends under section 52-215 to claim a trial
463 of the matter by jury. In that case, the Probate
464 Court shall allow the person filing the affidavit
465 a period of sixty days within which to bring an
466 appropriate civil action in the Superior Court to
467 resolve the matter in dispute. If such an action
468 is brought in the Superior Court, the matter,
469 after determination by the Superior Court, shall
470 be returned to the Probate Court for completion of
471 the Probate Court proceedings.

472 (b) If a party fails to file an affidavit of
473 intent to claim a jury trial prior to the initial
474 hearing in the Probate Court on the merits, or
475 having filed such an affidavit, fails to bring an
476 action in the Superior Court within the sixty-day
477 period allowed by the Probate Court, the party
478 shall be deemed to have consented to a hearing on
479 the matter in the Probate Court and to have waived
480 any right under section 52-215 or other applicable
481 law to a trial by jury.

482 Sec. 6. Section 45a-485 of the general
483 statutes is repealed and the following is
484 substituted in lieu thereof:

485 (a) If any marital deduction would not be
486 allowed by reason of Section 2056(d)(1) of the
487 Internal Revenue Code of 1986 with respect to any
488 interest in property passing under any will, trust
489 agreement or other governing instrument because
490 such interest fails to comply with the
491 requirements of Sections 2056(d)(2)(A) and
492 2056A(a) of said code, the Superior Court, OR THE
493 PROBATE COURT IF THE TRUST OR ESTATE IS OTHERWISE
494 SUBJECT TO THE JURISDICTION OF THE PROBATE COURT,
495 OR WITH RESPECT TO AN INTER VIVOS TRUST, IF THAT
496 TRUST IS OR COULD BE SUBJECT TO THE JURISDICTION
497 OF THE COURT FOR AN ACCOUNTING PURSUANT TO SECTION
498 45a-175, PROVIDED SUCH AN ACCOUNTING NEED NOT BE
499 REQUIRED, shall have jurisdiction over any action

500 brought to reform such will, trust agreement or
501 other governing instrument to comply with those
502 requirements so as to allow a marital deduction
503 under Section 2056(a) of said code. All references
504 contained in this section to any section of the
505 Internal Revenue Code of 1986 shall mean that
506 section of the Internal Revenue Code of 1986, or
507 any subsequent corresponding internal revenue code
508 of the United States, as from time to time
509 amended.

510 (b) The Superior Court OR THE PROBATE COURT
511 shall be empowered to reform any such will, trust
512 agreement or other governing instrument to the
513 extent necessary to ensure the allowance of the
514 marital deduction described in subsection (a) of
515 this section.

516 (c) Any reformation of any will, trust
517 agreement or other governing instrument in
518 accordance with the provisions of this section
519 shall be effective whether or not a disclaimer has
520 been filed within the period of time specified in
521 sections 45a-578 to 45a-585, inclusive.

522 (d) This section shall be applicable to any
523 action commenced to reform any such will, trust
524 agreement or other governing instrument created by
525 a decedent dying on or after November 10, 1988.

526 Sec. 7. Section 45a-519 of the general
527 statutes is repealed and the following is
528 substituted in lieu thereof:

529 (a) If any deduction under Section 170,
530 Section 2055 or Section 2522 of the Internal
531 Revenue Code of 1986 is not allowable with respect
532 to any interest in property passing under any
533 will, trust agreement or other governing
534 instrument to a person, or for a use, described in
535 Section 170(c), Section 2055(a) or Section 2522(a)
536 and (b) of said code because such interest shall
537 fail to comply with the requirements of Section
538 170(f)(2), Section 2055(e)(2) or Section
539 2522(c)(2) of said code, the Superior Court, OR
540 THE PROBATE COURT IF THE TRUST OR ESTATE IS
541 OTHERWISE SUBJECT TO THE JURISDICTION OF THE
542 PROBATE COURT, OR WITH RESPECT TO AN INTER VIVOS
543 TRUST, IF THAT TRUST IS OR COULD BE SUBJECT TO THE
544 JURISDICTION OF THE COURT FOR AN ACCOUNTING
545 PURSUANT TO SECTION 45a-175, PROVIDED SUCH AN
546 ACCOUNTING NEED NOT BE REQUIRED, shall have
547 jurisdiction over any action brought to reform

548 such will, trust agreement or other governing
549 instrument in accordance with the provisions of
550 Section 170(f)(7), Section 2055(e)(3) or Section
551 2522(c)(4) of said code so that such deduction may
552 be allowed under the applicable provisions of said
553 code. All references contained in this section to
554 any section of the Internal Revenue Code of 1986
555 shall mean that section of the Internal Revenue
556 Code of 1986, or any subsequent corresponding
557 internal revenue code of the United States, as
558 from time to time amended.

559 (b) The Superior Court OR THE PROBATE COURT
560 shall be empowered to reform any such will, trust
561 agreement or other governing instrument only to
562 the extent necessary in order to ensure the
563 allowance of any deduction described in subsection
564 (a) of this section, and only to the extent the
565 court finds that such reformation is consistent
566 with the original intent of the testator or donor.

567 (c) This section shall not be construed to
568 effect a change in any dispositive provisions of
569 the governing instrument as provided in section
570 45a-514.

571 (d) Any reformation of any will, trust
572 agreement or other governing instrument in
573 accordance with the provisions of this section
574 shall be effective whether or not a disclaimer has
575 been filed within the period of time specified in
576 sections 45a-578 to 45a-585, inclusive.

577 (e) This section shall be applicable to any
578 action commenced on or after July 18, 1984.

579 Sec. 8. Section 46b-150 of the general
580 statutes is repealed and the following is
581 substituted in lieu thereof:

582 Any minor who has reached his sixteenth
583 birthday and is residing in this state, or any
584 parent or guardian of such minor, may petition the
585 superior court for juvenile matters OR THE PROBATE
586 COURT for the district in which either the minor
587 or his parents or guardian resides for a
588 determination that the minor named in the petition
589 be emancipated. The petition shall be verified and
590 shall state plainly: (1) The facts which bring the
591 minor within the jurisdiction of the court, (2)
592 the name, date of birth, sex and residence of the
593 minor, (3) the name and residence of his parent,
594 parents or guardian, and (4) the name of the
595 petitioner and his relationship to the minor. Upon

596 the filing of the petition IN THE SUPERIOR COURT,
597 the court shall cause a summons to be issued to
598 the minor and his parent, parents or guardian, in
599 the manner provided in section 46b-128. UPON THE
600 FILING OF THE PETITION IN THE PROBATE COURT, THE
601 COURT SHALL ASSIGN A TIME, NOT LATER THAN THIRTY
602 DAYS THEREAFTER, AND A PLACE FOR HEARING SUCH
603 PETITION. THE COURT SHALL CAUSE A CITATION AND
604 NOTICE TO BE SERVED ON THE MINOR AND HIS PARENT,
605 IF THE PARENT IS NOT THE PETITIONER, AT LEAST
606 SEVEN DAYS PRIOR TO THE HEARING DATE, BY A
607 SHERIFF, HIS DEPUTY, CONSTABLE OR INDIFFERENT
608 PERSON. THE COURT SHALL DIRECT NOTICE BY CERTIFIED
609 MAIL TO THE PARENT, IF THE PARENT IS THE
610 PETITIONER. THE COURT SHALL ORDER SUCH NOTICE AS
611 IT DIRECTS TO THE COMMISSIONER OF CHILDREN AND
612 FAMILIES, AND OTHER PERSONS HAVING AN INTEREST IN
613 THE MINOR.

614 Sec. 9. Section 46b-150a of the general
615 statutes is repealed and the following is
616 substituted in lieu thereof:

617 (a) [The] WITH RESPECT TO A PETITION FILED IN
618 SUPERIOR COURT PURSUANT TO SECTION 46a-150, AS
619 AMENDED BY THIS ACT, THE SUPERIOR court may, if it
620 deems it appropriate, (1) require a probation
621 officer, the Commissioner of Children and Families
622 or any other person to investigate the allegations
623 in the petition and file a report of that
624 investigation with the court, (2) appoint counsel
625 for the minor who may serve as guardian ad litem
626 for the minor, (3) appoint counsel for the minor's
627 parents or guardian, or (4) make any other orders
628 regarding the matter which the court deems
629 appropriate.

630 (b) WITH RESPECT TO A PETITION FILED IN
631 PROBATE COURT PURSUANT TO SECTION 46b-150, AS
632 AMENDED BY THIS ACT, THE PROBATE COURT SHALL
633 REQUEST AN INVESTIGATION BY THE COMMISSIONER OF
634 CHILDREN AND FAMILIES, UNLESS THIS REQUIREMENT IS
635 WAIVED BY THE COURT FOR CAUSE SHOWN. THE COURT
636 SHALL APPOINT COUNSEL TO REPRESENT THE MINOR. THE
637 COSTS OF SUCH COUNSEL SHALL BE PAID BY THE MINOR.
638 EXCEPT THAT IF SUCH MINOR IS UNABLE TO PAY FOR
639 SUCH COUNSEL AND FILES AN AFFIDAVIT WITH THE COURT
640 DEMONSTRATING HIS INABILITY TO PAY, THE REASONABLE
641 COMPENSATION SHALL BE ESTABLISHED BY, AND PAID
642 FROM FUNDS APPROPRIATED TO, THE JUDICIAL
643 DEPARTMENT. IF FUNDS HAVE NOT BEEN INCLUDED IN THE

644 BUDGET OF THE JUDICIAL DEPARTMENT FOR SUCH
645 PURPOSES, SUCH COMPENSATION SHALL BE ESTABLISHED
646 BY THE PROBATE COURT ADMINISTRATOR AND PAID FROM
647 THE PROBATE COURT ADMINISTRATION FUND.

648 Sec. 10. Section 46b-150b of the general
649 statutes is repealed and the following is
650 substituted in lieu thereof:

651 If the SUPERIOR COURT OR THE PROBATE court,
652 after hearing, finds that: (1) The minor has
653 entered into a valid marriage, whether or not that
654 marriage has been terminated by dissolution; or
655 (2) the minor is on active duty with any of the
656 armed forces of the United States of America; or
657 (3) the minor willingly lives separate and apart
658 from his parents or guardian, with or without the
659 consent of the parents or guardian, and that the
660 minor is managing his own financial affairs,
661 regardless of the source of any lawful income; or
662 (4) for good cause shown, it is in the best
663 interest of the minor, any child of the minor or
664 the parents or guardian of the minor, the court
665 may enter an order declaring that the minor is
666 emancipated.

667 Sec. 11. Section 46b-150c of the general
668 statutes is repealed and the following is
669 substituted in lieu thereof:

670 Any person named in a petition filed pursuant
671 to section 46b-150a, AS AMENDED BY THIS ACT, who
672 is aggrieved by the order of the PROBATE court may
673 appeal to the SUPERIOR COURT AS PROVIDED IN
674 SECTION 45a-186. ANY PERSON NAMED IN A PETITION
675 FILED PURSUANT TO SECTION 46b-150a, AS AMENDED BY
676 THIS ACT, WHO IS AGGRIEVED BY ORDER OF THE
677 SUPERIOR COURT MAY APPEAL TO THE Appellate Court
678 in the manner provided in subsection (b) of
679 section 46b-142.

680 Sec. 12. Section 19a-301 of the general
681 statutes is repealed and the following is
682 substituted in lieu thereof:

683 (a) Any cemetery association, organized as
684 provided by law, may, by vote of the directors or
685 members of such association, set aside the surplus
686 funds of such association as a perpetual fund.
687 Such fund shall be invested in accordance with the
688 provisions of the statutes concerning the
689 investment of trust funds. Such fund, together
690 with any donation received by an ecclesiastical
691 society or cemetery association pursuant to

692 section 19a-303, shall be under the control,
693 management and supervision of a committee of not
694 fewer than three persons elected by such
695 association or society. Such ecclesiastical
696 society or cemetery association shall meet at
697 least once annually. The treasurer of such society
698 or association shall be, ex officio, the treasurer
699 of such committee, and shall give bond, with
700 surety, to the satisfaction of such committee, for
701 the faithful discharge of his duties. He shall
702 expend the income from such fund or donation for
703 the management, care and maintenance of any
704 cemetery owned or controlled by such
705 ecclesiastical society or cemetery association, or
706 for the purpose set forth in the instrument or
707 declaration of trust regulating the use of such
708 donation or fund if such instrument or declaration
709 of trust should otherwise provide, at the times
710 and in the manner designated by such society or
711 association. The treasurer shall annually, on or
712 before July first, make a report to such society
713 or association, stating the income received, to
714 whom it has been paid, the amount and condition of
715 the fund and how it is invested. A copy of such
716 report shall be filed with the probate court for
717 the district within which the cemetery owned or
718 controlled by the society or association is
719 located. Any treasurer who fails to file such
720 report with the probate court shall be fined not
721 more than fifty dollars.

722 (b) ANY INTERESTED PARTY MAY PETITION THE
723 PROBATE COURT HAVING JURISDICTION UNDER THIS
724 SECTION TO REQUIRE AN ACCOUNTING BY THE TREASURER.
725 THE COURT MAY, AFTER HEARING, WITH NOTICE TO ALL
726 INTERESTED PARTIES, GRANT THE PETITION AND REQUIRE
727 AN ACCOUNTING FOR SUCH PERIODS OF TIME AS IT
728 DETERMINES ARE REASONABLE AND NECESSARY ON FINDING
729 THAT: (1) THE PETITIONER HAS AN INTEREST IN THE
730 FUND SUFFICIENT TO ENTITLE HIM TO AN ACCOUNTING;
731 (2) CAUSE HAS BEEN SHOWN THAT AN ACCOUNTING IS
732 NECESSARY; AND (3) THE PETITION IS NOT FOR THE
733 PURPOSE OF HARASSMENT. THE COURT SHALL CAUSE
734 NOTICE OF THE HEARING ON THE ACCOUNT BE GIVEN TO
735 SUCH PARTIES AND IN SUCH MANNER AS IT DIRECTS.

736 (c) THE ACTION TO SUBMIT AN ACCOUNTING TO THE
737 COURT SHALL NOT SUBJECT THE FUND TO THE CONTINUING
738 JURISDICTION OF THE COURT.

739 (d) UPON THE ALLOWANCE OF ANY SUCH ACCOUNT,
740 THE COURT SHALL DETERMINE THE RIGHTS OF THE
741 PARTIES, SUBJECT TO APPEAL AS IN OTHER CASES.

742 Sec. 13. Section 17a-684 of the general
743 statutes is repealed and the following is
744 substituted in lieu thereof:

745 (a) A person who is intoxicated at the time
746 of application for commitment pursuant to
747 subsection (b) of this section and who (1) is
748 dangerous to himself or dangerous to others unless
749 committed, (2) needs medical treatment for
750 detoxification for potentially life-threatening
751 symptoms of withdrawal from alcohol or drugs or
752 (3) is incapacitated by alcohol, may be committed
753 for emergency treatment to a treatment facility
754 operated by the Department of Mental Health and
755 Addiction Services or a private treatment facility
756 approved by the department to provide emergency
757 treatment. A refusal to undergo treatment shall
758 not constitute evidence of lack of judgment as to
759 the need for treatment.

760 (b) A physician, spouse, guardian or relative
761 of the person to be committed, or any other
762 responsible person, may make a written application
763 for commitment under this section, directed to the
764 administrator of a treatment facility operated by
765 the department or approved by the department to
766 provide emergency treatment. The application shall
767 state facts to support the need for emergency
768 treatment and be accompanied by a physician's
769 certificate stating that he has examined the
770 person sought to be committed within two days
771 before the certificate's date and facts supporting
772 the need for emergency treatment.

773 (c) Upon tentative approval of the
774 application by the administrator of the treatment
775 facility, the person shall be transferred to the
776 facility. The medical officer of the treatment
777 facility shall immediately examine the person
778 sought to be committed and advise the
779 administrator of the treatment facility whether
780 the application sustains the grounds to commit the
781 person for emergency treatment. The administrator
782 shall either accept the application or refuse the
783 application if the application fails to sustain
784 the grounds for commitment. If the administrator
785 accepts the application, the person shall be
786 retained at the facility to which he was admitted,

787 or transferred to another appropriate treatment
788 facility, until discharged under subsection (d) of
789 this section.

790 (d) When, on the advice of the medical
791 officer, the administrator determines that the
792 grounds for commitment for emergency treatment no
793 longer exist, the administrator shall discharge a
794 person committed under this section. No person
795 committed under this section may be detained in
796 any treatment facility for more than five days. If
797 [a petition] AN APPLICATION for involuntary
798 commitment under section 17a-685, AS AMENDED BY
799 THIS ACT, has been filed within the five-day
800 period and the administrator of the treatment
801 facility, on the advice of the medical officer of
802 the facility, finds that grounds for commitment
803 exist under the provisions of said section, he may
804 detain the person until the [petition] APPLICATION
805 has been heard and determined, but no longer than
806 [five] TEN business days after filing the
807 [petition] APPLICATION.

808 [(e) A copy of the written application for
809 commitment and a written explanation of the
810 person's right to counsel, shall be given by the
811 administrator of the treatment facility to the
812 person within twenty-four hours after commitment
813 under this section. The administrator shall
814 provide a reasonable opportunity for the person to
815 consult counsel.]

816 Sec. 14. Section 17a-685 of the general
817 statutes is repealed and the following is
818 substituted in lieu thereof:

819 (a) Any person, including the spouse, a
820 relative [,] OR a conservator [or the legal
821 representative] of a person sought to be
822 committed, a physician issuing a certificate under
823 subsection (b) of this section or the
824 administrator of a treatment facility may
825 [petition the Superior] MAKE APPLICATION TO THE
826 PROBATE Court to commit a person to an inpatient
827 treatment facility for treatment for alcohol
828 dependency or drug dependency. The [petition]
829 APPLICATION shall be brought to the [superior]
830 PROBATE court for the [geographical area] DISTRICT
831 in which the [person sought to be committed]
832 RESPONDENT resides, or, if his residence is out of
833 state or unknown, for the [geographical area]
834 DISTRICT in which he is at the time of filing the

835 [petition] APPLICATION. IN ANY CASE IN WHICH THE
836 PERSON IS BEING TREATED IN A FACILITY, AND AN
837 APPLICATION IS FILED IN ACCORDANCE WITH THE
838 PROVISIONS OF THIS SECTION, JURISDICTION SHALL BE
839 VESTED IN THE PROBATE COURT FOR THE DISTRICT IN
840 WHICH THE FACILITY WHERE SUCH PERSON IS A PATIENT
841 IS LOCATED. IF THE RESPONDENT IS CONFINED TO A
842 FACILITY, NOTWITHSTANDING THE PROVISIONS OF
843 SECTION 45a-7, THE JUDGE OF PROBATE FOR THE
844 DISTRICT IN WHICH THE APPLICATION WAS FILED SHALL
845 HOLD THE HEARING ON THE APPLICATION AT THE
846 FACILITY WHERE SUCH PERSON IS CONFINED.

847 (b) The [petition] APPLICATION shall allege
848 that the person is an alcohol-dependent person or
849 a drug-dependent person who is dangerous to
850 himself or dangerous to others when he is an
851 intoxicated person or who is gravely disabled. THE
852 APPLICATION SHALL CONTAIN A STATEMENT THAT THE
853 APPLICANT HAS ARRANGED FOR TREATMENT IN A
854 TREATMENT FACILITY. A STATEMENT TO THAT EFFECT
855 FROM SUCH FACILITY SHALL BE ATTACHED TO THE
856 APPLICATION. The [petition] APPLICATION shall ALSO
857 be accompanied by a certificate of a licensed
858 physician who has examined the person within two
859 days before submission of the [petition, unless
860 the person whose commitment is sought has refused
861 to submit to a medical examination, in which case
862 the fact of refusal shall be alleged in the
863 petition] APPLICATION. The physician's certificate
864 shall set forth the physician's findings,
865 including clinical observation or information, or
866 the person's medical history, in support of the
867 allegations of the [petition] APPLICATION, and a
868 finding of whether the person presently needs and
869 is likely to benefit from treatment, and shall
870 include a recommendation as to the type and length
871 of treatment and inpatient facilities available
872 for such treatment. A physician employed by the
873 private treatment facility to which the person is
874 to be committed is not eligible to be the
875 certifying physician. [A petition] AN APPLICATION
876 filed by a person other than the certifying
877 physician shall set forth the facts and
878 information upon which the [petitioner] APPLICANT
879 bases his allegations and the names and addresses
880 of all physicians_ [and of any witnesses believed
881 to have knowledge of the material facts.]

882 (c) Upon [filing] RECEIPT OF the [petition]
883 APPLICATION, the court shall [fix a date] ASSIGN A
884 TIME for a hearing [no] NOT later than [five] TEN
885 business days after the date the [petition]
886 APPLICATION was filed. A copy of the [petition]
887 APPLICATION and PHYSICIAN'S certificate and [of]
888 the notice of the hearing, [including the date
889 fixed by the court,] shall be served, by [any
890 person authorized by law to effect service of
891 civil process,] A SHERIFF OR HIS DEPUTY, CONSTABLE
892 OR INDIFFERENT PERSON not later than three
893 business days before the hearing on the
894 respondent, [his] UNLESS THE RESPONDENT IS IN A
895 FACILITY, IN WHICH CASE SUCH NOTICE SHALL BE BY
896 REGULAR MAIL. SUCH NOTICE SHALL INFORM SUCH
897 RESPONDENT THAT HE HAS A RIGHT TO BE PRESENT AT
898 THE HEARING, THAT HE, IF INDIGENT, HAS A RIGHT TO
899 HAVE COUNSEL APPOINTED TO REPRESENT HIM, AND THAT
900 HE HAS A RIGHT TO CROSS-EXAMINE WITNESSES
901 TESTIFYING AT ANY HEARING UPON THAT APPLICATION.
902 THE COURT SHALL CAUSE A RECORDING OF THE TESTIMONY
903 OF SUCH HEARING TO BE MADE, TO BE TRANSCRIBED ONLY
904 IN THE EVENT OF AN APPEAL FROM THE DECREE RENDERED
905 PURSUANT TO THIS SECTION. A COPY OF SUCH
906 TRANSCRIPT SHALL BE FURNISHED WITHOUT CHARGE TO
907 ANY APPELLANT WHOM THE COURT OF PROBATE FINDS IS
908 UNABLE TO PAY FOR THE SAME. THE COST OF SAID
909 TRANSCRIPT SHALL BE PAID FROM FUNDS APPROPRIATED
910 TO THE JUDICIAL DEPARTMENT. THE COURT SHALL CAUSE
911 NOTICE OF SAID HEARING TO BE GIVEN BY REGULAR MAIL
912 TO THE RESPONDENT'S next of kin, [other than the
913 petitioner,] a parent or his legal guardian if he
914 is a minor, the administrator of the treatment
915 facility if the respondent has been committed for
916 emergency treatment pursuant to section 17a-684,
917 AS AMENDED BY THIS ACT, AND the administrator of
918 the treatment facility to which the respondent is
919 to be admitted. [, and any other person the court
920 believes advisable. If the petitioner is the
921 administrator of a treatment facility operated by
922 the Department of Mental Health and Addiction
923 Services, service may be made at the expense of
924 the state. The petitioner shall be notified of the
925 hearing date not later than three business days
926 before the hearing.] THE COURT MAY ORDER SUCH
927 NOTICE AS IT DIRECTS TO OTHER PERSONS HAVING AN
928 INTEREST IN THE RESPONDENT. IF THE COURT FINDS
929 SUCH RESPONDENT IS INDIGENT OR OTHERWISE UNABLE TO

930 PAY FOR COUNSEL, THE COURT SHALL APPOINT COUNSEL
931 FOR SUCH RESPONDENT, UNLESS SUCH RESPONDENT
932 REFUSES COUNSEL AND THE COURT FINDS THAT THE
933 RESPONDENT UNDERSTANDS THE NATURE OF HIS REFUSAL.
934 THE COURT SHALL APPOINT COUNSEL FOR THE RESPONDENT
935 FROM A PANEL OF ATTORNEYS ADMITTED TO PRACTICE IN
936 THIS STATE PROVIDED BY THE PROBATE COURT
937 ADMINISTRATOR IN ACCORDANCE WITH REGULATIONS
938 PROMULGATED BY THE PROBATE COURT ADMINISTRATOR IN
939 ACCORDANCE WITH SECTION 45a-77. THE REASONABLE
940 COMPENSATION OF APPOINTED COUNSEL SHALL BE
941 ESTABLISHED BY, AND PAID FROM FUNDS APPROPRIATED
942 TO, THE JUDICIAL DEPARTMENT. IF FUNDS HAVE NOT
943 BEEN INCLUDED IN THE BUDGET OF THE JUDICIAL
944 DEPARTMENT FOR SUCH PURPOSES, SUCH COMPENSATION
945 SHALL BE ESTABLISHED BY THE PROBATE COURT
946 ADMINISTRATOR AND PAID FROM THE PROBATE COURT
947 ADMINISTRATION FUND. PRIOR TO SUCH HEARING SUCH
948 RESPONDENT, OR HIS COUNSEL, IN ACCORDANCE WITH THE
949 PROVISIONS OF SECTIONS 52-146d TO 52-146i,
950 INCLUSIVE, SHALL BE AFFORDED ACCESS TO ALL
951 RECORDS, INCLUDING WITHOUT LIMITATION, HOSPITAL
952 RECORDS IF SUCH RESPONDENT IS HOSPITALIZED, AND
953 SHALL BE ENTITLED TO TAKE NOTES THEREFROM. IF SUCH
954 RESPONDENT IS HOSPITALIZED AT THE TIME OF THE
955 HEARING, THE HOSPITAL SHALL MAKE AVAILABLE AT SUCH
956 HEARING FOR USE BY THE RESPONDENT OR HIS COUNSEL
957 ALL RECORDS IN ITS POSSESSION RELATING TO THE
958 CONDITION OF THE RESPONDENT. NOTWITHSTANDING THE
959 PROVISIONS OF SECTIONS 52-146d TO 52-146i,
960 INCLUSIVE, ALL SUCH HOSPITAL RECORDS DIRECTLY
961 RELATING TO THE RESPONDENT SHALL BE ADMISSIBLE AT
962 THE REQUEST OF ANY PARTY OR THE PROBATE COURT IN
963 ANY PROCEEDING RELATING TO THE CONFINEMENT TO OR
964 RELEASE FROM A HOSPITAL OR TREATMENT FACILITY.
965 NOTHING IN THIS SECTION SHALL PREVENT TIMELY
966 OBJECTIONS TO THE ADMISSIBILITY OF EVIDENCE IN
967 ACCORDANCE WITH THE RULES OF CIVIL PROCEDURE.

968 (d) If, after hearing all relevant evidence,
969 including the results of any diagnostic
970 examination, the court finds, by clear and
971 convincing evidence, that the respondent is an
972 alcohol-dependent person or a drug-dependent
973 person who is dangerous to himself or dangerous to
974 others when he is an intoxicated person or who is
975 gravely disabled, it shall make an order of
976 commitment to a treatment facility for inpatient
977 treatment for a period of not less than thirty nor

978 more than one hundred eighty days. The court may
979 not order commitment of a respondent unless it
980 determines that the treatment facility is able to
981 provide adequate and appropriate treatment for him
982 and that the treatment is likely to be beneficial.
983 In any proceeding pursuant to this subsection, the
984 provisions of section 17a-686 shall apply.

985 (e) A person committed under this section
986 shall remain in the custody of the administrator
987 of the treatment facility for inpatient treatment
988 for the commitment period unless sooner discharged
989 under the provisions of subsection (k) of this
990 section by the administrator of the treatment
991 facility. At the end of the commitment period, a
992 person committed under this section shall be
993 discharged automatically unless the administrator,
994 before expiration of the period, obtains a court
995 order for recommitment pursuant to the provisions
996 of subsection (f) of this section for inpatient
997 treatment. When the person is discharged, the
998 administrator shall, if recommended by the medical
999 officer of the facility, refer the person to an
1000 outpatient treatment facility for treatment
1001 pursuant to the provisions of subsection (j) of
1002 this section.

1003 (f) The administrator of an inpatient
1004 treatment facility, before expiration of the
1005 commitment period ordered in subsection (d) of
1006 this section, or the administrator of an
1007 outpatient treatment facility, before expiration
1008 of the outpatient treatment period set forth in
1009 subsection (j) of this section, may, on the advice
1010 of the medical officer of the facility, [petition]
1011 MAKE APPLICATION TO the court for recommitment of
1012 the person to a treatment facility for inpatient
1013 treatment. [A petition] AN APPLICATION for
1014 recommitment shall allege that the respondent is
1015 an alcohol-dependent person or a drug-dependent
1016 person who needs further inpatient treatment and
1017 who is likely to become dangerous to himself or
1018 dangerous to others when he is an intoxicated
1019 person or likely to become gravely disabled AND IS
1020 LIKELY TO BENEFIT FROM SUCH TREATMENT, and, if the
1021 respondent is in an outpatient facility, that the
1022 respondent is not successfully participating in
1023 the outpatient program.

1024 (g) Upon the [filing of a petition] RECEIPT
1025 OF AN APPLICATION for recommitment under

1026 subsection (f) of this section, the court shall
1027 [fix a date] ASSIGN A TIME for hearing no later
1028 than ten business days after the date the
1029 [petition] APPLICATION was filed. A copy of the
1030 [petition] APPLICATION and of the notice of the
1031 hearing, including the date fixed by the court,
1032 shall be [served, by any person authorized by law
1033 to effect service of civil process,] SENT BY
1034 REGULAR MAIL no later than three business days
1035 before the hearing, [on] TO the respondent, his
1036 next of kin, the original [petitioner] APPLICANT
1037 under subsection (a) of this section if different
1038 from the [petitioner] APPLICANT for recommitment,
1039 [one of] his parents or his legal guardian if he
1040 is a minor, the administrator of the treatment
1041 facility to which the respondent is admitted or to
1042 be admitted and any other person the court
1043 believes advisable. The [petitioner] APPLICANT
1044 shall be notified of the hearing date not later
1045 than three business days before the hearing. [If
1046 the petitioner is the administrator of a treatment
1047 facility operated by the Department of Mental
1048 Health and Addiction Services, service may be made
1049 at the expense of the state.]

1050 (h) If after hearing all relevant evidence,
1051 including the results of any diagnostic
1052 examination, the court finds, by clear and
1053 convincing evidence, that the respondent is an
1054 alcohol-dependent person or a drug-dependent
1055 person who needs further inpatient treatment and
1056 who is likely [to become dangerous to himself or
1057 dangerous to others when he is an intoxicated
1058 person or likely to become gravely disabled] TO
1059 BENEFIT FROM SUCH TREATMENT, and, if the
1060 respondent is in an outpatient treatment facility,
1061 that the respondent is not successfully
1062 participating in the outpatient program, it shall
1063 make an order of recommitment to an inpatient
1064 treatment facility for treatment for a period of
1065 not less than thirty nor more than one hundred
1066 eighty days. The court may not order recommitment
1067 of a respondent unless it determines that the
1068 treatment facility is able to provide adequate and
1069 appropriate treatment for him and that the
1070 treatment is likely to be beneficial. The court
1071 shall not make more than one recommitment order
1072 immediately following an original commitment order
1073 under subsection (d) of this section nor more than

1074 one recommitment order from an outpatient
1075 treatment facility. In any proceeding pursuant to
1076 this subsection, the provisions of section
1077 17a-686, AS AMENDED BY THIS ACT, shall apply.

1078 (i) A person recommitted under subsection (h)
1079 of this section who has not been discharged before
1080 the end of the recommitment period shall be
1081 discharged automatically at the expiration of that
1082 period. When the recommitted person is discharged,
1083 the administrator of the treatment facility shall,
1084 if advised to do so by the medical officer of the
1085 facility, refer the person to an outpatient
1086 treatment facility for treatment pursuant to the
1087 provisions of subsection (j) of this section.

1088 (j) A person referred to an outpatient
1089 treatment facility pursuant to the provisions of
1090 subsection (e) or (i) of this section shall remain
1091 in outpatient treatment for a period of twelve
1092 months unless sooner discharged by the
1093 administrator of the treatment facility, on the
1094 advice of the medical officer of the facility, or
1095 unless, before expiration of the period of
1096 outpatient treatment, the administrator obtains a
1097 court order of recommitment for inpatient
1098 treatment as provided in subsection (h) of this
1099 section.

1100 (k) The administrator of a treatment
1101 facility, on the advice of the medical officer,
1102 shall discharge a person committed or recommitted
1103 for treatment at any time before the end of the
1104 period for which he has been committed if the
1105 person is no longer an alcohol-dependent person or
1106 a drug-dependent person in need of further
1107 treatment, further treatment will not be likely to
1108 bring about significant improvement in the
1109 person's condition or treatment is no longer
1110 adequate or appropriate.

1111 (l) If a committed or recommitted person has
1112 not been discharged pursuant to subsection (k) of
1113 this section, [any responsible person, including
1114 the committed or recommitted person,] SUCH PERSON
1115 may [petition the Superior] MAKE APPLICATION TO
1116 THE PROBATE Court for termination of commitment or
1117 recommitment and discharge from the treatment
1118 facility. The [petition] APPLICATION shall allege
1119 that the committed or recommitted person is no
1120 longer an alcohol-dependent person or a
1121 drug-dependent person in need of further

1122 treatment, that further treatment will not be
1123 likely to bring about significant improvement in
1124 the person's condition or that treatment is no
1125 longer adequate or appropriate. [The petition
1126 shall be set for hearing within seven business
1127 days of its receipt by the clerk of the court. Not
1128 later than three business days before the hearing
1129 a copy of the petition and notice of the hearing,
1130 including the date fixed by the court, shall be
1131 served, by any person authorized by law to effect
1132 service of civil process, on the committed or
1133 recommitted person if different from the
1134 petitioner, and on the administrator of the
1135 treatment facility where the person was committed
1136 or recommitted. The petitioner shall be notified
1137 of the hearing date not later than three business
1138 days before the hearing. In any proceeding
1139 pursuant to this subsection, the provisions of
1140 section 17a-686 shall apply.] UPON RECEIPT OF ANY
1141 SUCH APPLICATION, SUCH COURT SHALL ASSIGN A TIME,
1142 NOT LATER THAN TEN BUSINESS DAYS THEREAFTER, AND A
1143 PLACE FOR HEARING SUCH APPLICATION, AND SHALL
1144 CAUSE REASONABLE NOTICE THEREOF TO BE GIVEN TO THE
1145 APPLICANT, THE ADMINISTRATOR OF THE TREATMENT
1146 FACILITY AND ANY OTHER PERSON THE COURT DEEMS
1147 ADVISABLE. SUCH NOTICE SHALL INFORM THE APPLICANT
1148 THAT HE HAS THE RIGHT TO BE PRESENT AT THE HEARING
1149 AND TO PRESENT EVIDENCE AT THE HEARING, THAT HE
1150 HAS A RIGHT TO COUNSEL, THAT HE, IF INDIGENT, HAS
1151 A RIGHT TO HAVE COUNSEL APPOINTED TO REPRESENT
1152 HIM, AND THAT HE HAS A RIGHT TO CROSS-EXAMINE
1153 WITNESSES AT ANY HEARING ON SUCH APPLICATION. THE
1154 PROVISIONS OF SECTION 17a-686, AS AMENDED BY THIS
1155 ACT, SHALL APPLY. If, after hearing, the court
1156 determines that the grounds alleged in the
1157 [petition] APPLICATION exist, it shall order
1158 termination of the commitment or recommitment and
1159 discharge of the committed or recommitted person,
1160 except that the court may not order the discharge
1161 of an alcohol-dependent person or drug-dependent
1162 person who the court determines is likely to
1163 become dangerous to himself or dangerous to others
1164 when he is an intoxicated person.

1165 (m) The administrator of a treatment facility
1166 to which a committed or recommitted person has
1167 been committed or recommitted may, under such
1168 restrictions or agreements as he deems advisable
1169 and on the advice of the medical officer of the

1170 facility, permit the person to leave the treatment
1171 facility temporarily, in the charge of his
1172 guardian, CONSERVATOR, relatives or friends, or by
1173 himself.

1174 (n) ALL THE EXPENSES IN CONNECTION WITH AN
1175 APPLICATION FILED UNDER SECTIONS 17a-684 TO
1176 17a-686, INCLUSIVE, AS AMENDED BY THIS ACT, SHALL
1177 BE PAID BY THE APPLICANT, UNLESS THE APPLICANT IS
1178 INDIGENT, IN WHICH CASE SUCH EXPENSES SHALL BE
1179 PAID BY THE STATE FROM FUNDS APPROPRIATED TO THE
1180 DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES
1181 IN ACCORDANCE WITH RATES ESTABLISHED BY SAID
1182 DEPARTMENT, AND ATTORNEY'S FEES SHALL BE
1183 ESTABLISHED BY, AND PAID FROM FUNDS APPROPRIATED
1184 TO, THE JUDICIAL DEPARTMENT. IF FUNDS HAVE NOT
1185 BEEN INCLUDED IN THE BUDGET OF THE JUDICIAL
1186 DEPARTMENT FOR SUCH ATTORNEY'S FEES, SUCH FEES
1187 SHALL BE ESTABLISHED BY THE PROBATE COURT
1188 ADMINISTRATOR AND PAID FROM THE PROBATE COURT
1189 ADMINISTRATION FUND, PROVIDED IN NO EVENT SHALL
1190 THE EXPENSES UNDER SUBSECTION (1) OF THIS SECTION
1191 BE PAID FOR ANY ONE APPLICANT FOR MORE THAN TWO
1192 HEARINGS PER YEAR.

1193 Sec. 15. Section 17a-686 of the general
1194 statutes is repealed and the following is
1195 substituted in lieu thereof:

1196 [(a) Petitions for commitment and
1197 recommitment pursuant to sections 17a-465a,
1198 17a-673, 17a-677 and 17a-680 to 17a-690,
1199 inclusive, or for termination of commitment or
1200 recommitment and discharge shall not require the
1201 payment of an entry fee to the court, and neither
1202 petitioner nor respondent shall be liable for
1203 costs.

1204 (b) The court shall inform the person whose
1205 commitment or recommitment is sought or who is
1206 petitioning for termination of commitment or
1207 recommitment and discharge of his right to contest
1208 the petition for commitment or recommitment, to be
1209 represented by counsel at every stage of any
1210 proceedings relating to his commitment and
1211 recommitment, and to have counsel appointed by the
1212 court. If he requests the assistance of counsel
1213 and is unable to obtain counsel, the court shall
1214 appoint counsel to represent him. If the court
1215 believes that the person needs the assistance of
1216 counsel, the court shall require, by appointment
1217 if necessary, counsel for him regardless of his

1218 wishes. If the court finds the person indigent or
1219 otherwise unable to pay for counsel, reasonable
1220 compensation of appointed counsel shall be
1221 established by, and paid from, funds appropriated
1222 to the Judicial Department. The person shall be
1223 informed of his right to be examined by a licensed
1224 physician of his choice. If the person is unable
1225 to obtain a licensed physician and requests
1226 examination by a physician, the court shall employ
1227 a licensed physician.]

1228 [(c)] (a) At any hearing on [a petition] AN
1229 APPLICATION for commitment, recommitment or
1230 termination and discharge, the court shall inquire
1231 into the facts of the [petition] APPLICATION. The
1232 following provisions shall apply to the hearing:

1233 (1) The [person] RESPONDENT shall be present
1234 unless the court finds by clear and convincing
1235 evidence that his presence would be injurious to
1236 himself. [If the person is not present, the court
1237 shall appoint a guardian ad litem to represent
1238 him;

1239 (2) The court shall examine the person in
1240 open court, or, if the person is not present,
1241 examine him in such a private setting as the court
1242 may determine;]

1243 [(3)] (2) The [person] RESPONDENT or his
1244 representative may present evidence and
1245 cross-examine witnesses;

1246 [(4)] The court shall order any examining
1247 physician to appear if the person notifies the
1248 court not less than two days before the hearing
1249 that he wishes to cross-examine such physician;]

1250 (3) IT IS THE RESPONSIBILITY OF THE APPLICANT
1251 TO PROVIDE MEDICAL TESTIMONY.

1252 [(5)] The Connecticut rules of evidence shall
1253 be observed.]

1254 [(d)] (b) If, at the time of the hearing, the
1255 person is being treated at a treatment facility
1256 and is medicated, the treatment facility shall
1257 notify the court of the medication and of the
1258 common effects thereof.

1259 [(e)] (c) The court may not order a
1260 commitment or recommitment unless the evidence
1261 presented includes the report of at least one
1262 licensed physician who has examined the person
1263 which supports the allegations of the [petition]
1264 APPLICATION for commitment or recommitment. [If
1265 the person has refused to be examined by a

1266 physician, the court shall dismiss the petition
1267 unless it finds sufficient evidence to believe
1268 that the allegations of the petition are true. If
1269 the court finds sufficient evidence to believe
1270 that such allegations are true, it shall order the
1271 person examined by one or more physicians. If
1272 necessary to effect such examination, the court
1273 may order the person temporarily committed to a
1274 treatment facility operated by the commission for
1275 a period of not more than five days for the
1276 purposes of such examination. A refusal to undergo
1277 or to continue treatment shall not be evidence of
1278 lack of judgment as to the need for treatment.]

1279 [(f)] (d) If a private treatment facility
1280 agrees with the request of a patient or his
1281 parent, sibling, adult child or legal
1282 representative to accept the patient for
1283 treatment, the administrator of the treatment
1284 facility operated by the Department of Mental
1285 Health and Addiction Services shall transfer him
1286 to the private treatment facility.

1287 [(g)] (e) In any contested proceeding for
1288 commitment, recommitment, or termination and
1289 discharge, the Attorney General shall, upon
1290 request, represent the administrator of a
1291 treatment facility operated by the department.
1292 [The court may appoint counsel to represent an
1293 indigent petitioner where the petitioner is the
1294 spouse, guardian or relative.]

1295 Sec. 16. Section 17a-691 of the general
1296 statutes, as amended by section 13 of public act
1297 97-8 of the June 18 special session, is repealed
1298 and the following is substituted in lieu thereof:

1299 As used in sections 17a-691 to 17a-701,
1300 inclusive:

1301 (a) "Alcohol-dependent person" means an
1302 alcohol-dependent person as defined in section
1303 17a-680.

1304 (b) "COURT" MEANS SUPERIOR COURT.

1305 [(b)] (c) "Drug" means a controlled drug as
1306 defined in section 17a-680.

1307 [(c)] (d) "Drug-dependent person" means a
1308 drug-dependent person as defined in section
1309 17a-680.

1310 [(d)] (e) "Treatment program" means a program
1311 operated by the Department of Mental Health and
1312 Addiction Services or approved by the Commissioner
1313 of Mental Health and Addiction Services for

1314 treatment of both the physical and psychological
1315 effects of alcohol or drug dependency, provided
1316 such program is not intended solely to detoxify an
1317 alcohol-dependent or drug-dependent person.

1318 Sec. 17. Section 45a-650 of the general
1319 statutes, as amended by section 4 of public act
1320 97-90, is amended by adding subsection (g) as
1321 follows:

1322 (NEW) (g) The court may limit the powers and
1323 duties of either the conservator of the person or
1324 the conservator of the estate, to include some,
1325 but not all, of the powers and duties set forth in
1326 subsections (a) and (b) of section 45a-644,
1327 sections 45a-655 and 45a-656, and shall make
1328 specific findings to justify such a limitation, in
1329 the best interests of the ward. In determining
1330 whether or not any limitations should be imposed,
1331 the court shall consider the abilities of the
1332 ward, the prior appointment of any
1333 attorney-in-fact, health care agent, trustee or
1334 other fiduciary acting on behalf of the ward, any
1335 support services which are otherwise available to
1336 the ward, and any other relevant evidence. The
1337 court may modify its decree upon any change in
1338 circumstances.

1339 Sec. 18. Section 51-217 of the general
1340 statutes, as amended by section 3 of public act
1341 97-200, is repealed and the following is
1342 substituted in lieu thereof:

1343 (a) All jurors shall be electors, or citizens
1344 of the United States who are residents of this
1345 state having a permanent place of abode in this
1346 state and appear on the list compiled by the Jury
1347 Administrator under subsection (b) of section
1348 51-222a, who have reached the age of eighteen. A
1349 person shall be disqualified to serve as a juror
1350 if such person (1) is found by a judge of the
1351 Superior Court to exhibit any quality which will
1352 impair his capacity to serve as a juror, except
1353 that no person shall be disqualified on the basis
1354 of deafness or hearing impairment; (2) has been
1355 convicted of a felony within the past seven years
1356 or is a defendant in a pending felony case or is
1357 in the custody of the Commissioner of Correction;
1358 (3) is not able to speak and understand the
1359 English language; (4) is the Governor, Lieutenant
1360 Governor, Secretary of the State, Treasurer,
1361 Comptroller or Attorney General; (5) is a judge of

1362 the PROBATE COURT, Superior Court, Appellate Court
1363 or Supreme Court, is a family support magistrate
1364 or is a federal court judge; (6) is a member of
1365 the General Assembly, provided such
1366 disqualification shall apply only while the
1367 General Assembly is in session; (7) is seventy
1368 years of age or older and chooses not to perform
1369 juror service; or (8) is incapable, by reason of a
1370 physical or mental disability, of rendering
1371 satisfactory juror service. Any person claiming a
1372 disqualification under subdivision (8) of this
1373 subsection must submit to the Jury Administrator a
1374 letter from a licensed physician stating the
1375 physician's opinion that such disability prevents
1376 the person from rendering satisfactory juror
1377 service. In reaching such opinion, the physician
1378 shall apply the following guideline: A person
1379 shall be capable of rendering satisfactory juror
1380 service if such person is able to perform a
1381 sedentary job requiring close attention for six
1382 hours per day, with short work breaks in the
1383 morning and afternoon sessions, for at least three
1384 consecutive business days.

1385 (b) The Jury Administrator may determine, in
1386 such manner and at such times as he deems
1387 feasible, whether any person is qualified to serve
1388 as juror under this section and whether any person
1389 may be excused for extreme hardship.

1390 Sec. 19. Section 45a-124 of the general
1391 statutes is repealed and the following is
1392 substituted in lieu thereof:

1393 Any order of notice of a hearing OR NOTICE OF
1394 THE RIGHT TO REQUEST A HEARING in any proceeding
1395 in, or matter pending before, a court of probate,
1396 which is required by law to be given to interested
1397 persons, may be made by the judge, the clerk or
1398 the assistant clerk of such court of probate.

1399 Sec. 20. Section 45a-151 of the general
1400 statutes is repealed and the following is
1401 substituted in lieu thereof:

1402 (a) Upon application by executors, guardians,
1403 conservators, administrators, [trustees in
1404 insolvency] and trustees appointed, or whose
1405 appointment has been approved, by the Court of
1406 Probate, the court may, after [public] notice and
1407 hearing, authorize such fiduciaries to compromise
1408 and settle any doubtful or disputed claims or
1409 actions, or any appeal from probate in favor of or

1410 against the estates or persons represented by
1411 them.

1412 (b) In order to accomplish such compromise or
1413 settlement, the court may authorize the
1414 conveyance, with or without requiring a bond, of
1415 the whole or any part of, or any easement or other
1416 interest in, any real property situated in this
1417 state forming part of the trust estate or owned by
1418 any such trustee, executor or administrator or
1419 owned by any deceased person, ward or incapable
1420 person for whom such an executor, guardian,
1421 conservator or administrator was appointed.

1422 Sec. 21. Section 45a-163 of the general
1423 statutes is repealed and the following is
1424 substituted in lieu thereof:

1425 (a) Upon the written application of any
1426 fiduciary described in section 45a-164, after
1427 [public notice and other] SUCH notice which the
1428 court may order and after hearing, the Court of
1429 Probate may authorize a person other than the
1430 fiduciary to sell the whole or any part of or any
1431 interest in any personal property of any incapable
1432 person, minor, missing person, deceased person or
1433 trustee, or any property to which the fiduciary
1434 may hold legal title in such capacity, if: (1)
1435 Such person has first given a probate bond that he
1436 will faithfully administer and account for the
1437 proceeds of the sale according to law; and (2) the
1438 court finds that to grant the application would be
1439 in the best interests of the parties in interest.
1440 If any party having an interest in such personal
1441 property is not in being or is not ascertained or
1442 is under a disability, the court shall appoint a
1443 guardian ad litem to represent the interest of
1444 such party at the hearing, unless such party
1445 already is represented by a guardian or by a
1446 conservator. Such order, and the sale thereunder,
1447 shall be conclusive upon all persons then or
1448 thereafter existing whose interests have been so
1449 represented.

1450 (b) The person selling the personal property
1451 shall pay to the fiduciary the sum for which such
1452 personal property was sold.

1453 (c) The Court of Probate shall direct whether
1454 the sale shall be public or private, and, if
1455 public, the notice thereof which shall be given,
1456 and, if private, may authorize the sale at a price
1457 and upon terms, including such mortgage or

1458 mortgages, as it considers reasonable or
1459 advisable.

1460 Sec. 22. Section 45a-164 of the general
1461 statutes is repealed and the following is
1462 substituted in lieu thereof:

1463 (a) Upon the written application of the
1464 conservator of the estate of any person, guardian
1465 of the estate of any minor, temporary
1466 administrator, administrator or trustee appointed
1467 by the court, including a trustee of a missing
1468 person, or the executor or trustee under any will
1469 admitted to probate by the court, after [public
1470 notice and other notice which] SUCH NOTICE AS the
1471 court may order and after hearing, the court may
1472 authorize the sale or mortgage of the whole or any
1473 part of, or any easement or other interest in, any
1474 real property in this state of such person, minor,
1475 missing person, deceased person or trustee, or of
1476 any real property the legal title to which has
1477 been acquired by such temporary administrator,
1478 administrator, executor or trustee, if the court
1479 finds it would be for the best interests of the
1480 parties in interest to grant the application.

1481 (b) The court may empower the conservator,
1482 guardian, temporary administrator, administrator,
1483 executor or trustee to execute a conveyance of
1484 such property or to execute a note and a mortgage
1485 to secure such property upon giving a probate bond
1486 faithfully to administer and account for the
1487 proceeds of the sale or mortgage according to law,
1488 unless the court finds that there is in force, for
1489 such fiduciary, a probate bond in an amount and
1490 with security determined in accordance with
1491 section 45a-139 or unless the bond is dispensed
1492 with in accordance with section 45a-169. The
1493 application shall set forth a description of the
1494 property to be sold or mortgaged.

1495 (c) After a hearing, the court may authorize
1496 that the property be sold to the fiduciary either
1497 directly or under the provisions of section
1498 45a-167, except that if a public sale is ordered,
1499 the fiduciary may be the purchaser only if the
1500 sale is made under section 45a-167. In the case of
1501 any proposed sale to a fiduciary, any notice [sent
1502 to interested parties and any public notice] shall
1503 indicate that the fiduciary is the proposed
1504 purchaser.

1505 (d) If any person having an interest in such
1506 real property is not in being or is not
1507 ascertained or is under a disability, the court
1508 shall appoint a guardian ad litem to represent the
1509 interests of such person at the hearing. A
1510 guardian ad litem shall not be necessary if such
1511 person is represented by a guardian or by a
1512 conservator, unless the sale of the property is to
1513 such guardian or conservator or such guardian or
1514 conservator has a potential conflict as an
1515 applicant or otherwise.

1516 (e) The order and the sale or mortgage under
1517 the order shall be conclusive upon all persons
1518 then or thereafter existing whose interests have
1519 been so represented.

1520 Sec. 23. Section 45a-176 of the general
1521 statutes is repealed and the following is
1522 substituted in lieu thereof:

1523 [(a) Except as provided in subsection (b) of
1524 this section or] EXCEPT when any beneficiary is a
1525 trustee of a testamentary or inter vivos trust, if
1526 [the] ANY fiduciary of a decedent's estate is [the
1527 sole beneficiary] ONE OF THE BENEFICIARIES of the
1528 residue of the estate, [or if multiple fiduciaries
1529 of a decedent's estate are the only beneficiaries
1530 of the residue of the estate,] and if all
1531 dispositions, if any, to other beneficiaries are
1532 bequests of specific personal property or of an
1533 amount certain or devises of specific real
1534 property, [the] ANY fiduciary may, in lieu of any
1535 other accounting required under this chapter, file
1536 with the court of probate having jurisdiction of
1537 the estate a statement under [oath] THE PENALTIES
1538 OF FALSE STATEMENT that all debts, funeral
1539 expenses, taxes and expenses of administration
1540 have been paid, and [such] ALL bequests and
1541 devises [, if any,] have been OR WILL BE
1542 distributed. [and receipts therefor obtained.] The
1543 statement shall include the total of any amount
1544 reported on the return of claims filed under
1545 section 45a-397, [and] an itemized list of all
1546 funeral expenses, taxes and expenses of
1547 administration, [The receipts of the beneficiaries
1548 of such bequests and devises shall be filed with
1549 the court of probate at the time such statement is
1550 filed] AND A REPRESENTATION THAT ALL DISTRIBUTEES
1551 HAVE RECEIVED A COPY OF THE STATEMENT. ANY
1552 DISTRIBUTE OR OTHER INTERESTED PARTY NOT

1553 SATISFIED WITH THE ADEQUACY OR CONTENT OF THE
1554 STATEMENT MAY REQUEST THE FILING OF AN ACCOUNT
1555 UNDER SECTION 45a-175 OR OBJECT TO THE STATEMENT
1556 BY PETITIONING THE COURT FOR A HEARING AT ANY TIME
1557 PRIOR TO THE COURT'S APPROVAL OF THE STATEMENT.
1558 THE COURT MAY, FOR CAUSE SHOWN, REFUSE TO ACCEPT
1559 THE STATEMENT AND REQUIRE AN ACCOUNTING FROM THE
1560 FIDUCIARY. The court of probate may [thereafter]
1561 enter a decree releasing and discharging the
1562 fiduciary and the sureties on his bond, if any,
1563 from any further liability. [Any fiduciary so
1564 discharged shall be excused from filing an
1565 accounting and any further returns with the
1566 court.]

1567 [(b) A court of probate may, for cause shown,
1568 refuse to accept the statement and require an
1569 accounting from the fiduciary.]

1570 Sec. 24. Section 45a-179 of the general
1571 statutes is repealed and the following is
1572 substituted in lieu thereof:

1573 (a) When [an executor, administrator,] A
1574 conservator, guardian, trustee in insolvency or
1575 trustee of a testamentary trust exhibits his final
1576 account to the Court of Probate for allowance, the
1577 court shall appoint a time and place for a hearing
1578 on the account and shall cause notice of the
1579 hearing to be given as it directs. Such fiduciary
1580 shall swear or affirm under oath to the truth of
1581 the account.

1582 (b) THE COURT SHALL, BEFORE APPROVING A FINAL
1583 ACCOUNT OF AN EXECUTOR OR ADMINISTRATOR, HOLD A
1584 HEARING THEREON FOR WHICH NOTICE MAY BE GIVEN AS
1585 THE COURT SHALL DIRECT, UNLESS ALL PARTIES
1586 INTERESTED IN THE ESTATE SIGN AND FILE IN COURT A
1587 WRITTEN WAIVER OF SUCH NOTICE.

1588 Sec. 25. Section 45a-187 of the general
1589 statutes is repealed and the following is
1590 substituted in lieu thereof:

1591 (a) An appeal under section 45a-186 by those
1592 of the age of majority and who are present or who
1593 have legal notice to be present, OR WHO HAVE BEEN
1594 GIVEN NOTICE OF THEIR RIGHT TO REQUEST A HEARING
1595 OR HAVE FILED A WRITTEN WAIVER OF THEIR RIGHT TO A
1596 HEARING, shall be taken within thirty days. If
1597 such persons have no notice to be present and are
1598 not present, OR HAVE NOT BEEN GIVEN NOTICE OF
1599 THEIR RIGHT TO REQUEST A HEARING, then appeal
1600 shall be taken within twelve months, except for

1601 appeals by such persons from a decree of
1602 termination of parental rights or adoption, in
1603 which case appeal shall be taken within ninety
1604 days.

1605 (b) An appeal from any probate order for the
1606 payment of claims or dividends on claims against
1607 any insolvent estate shall not be allowed unless
1608 it is taken within thirty days after the making of
1609 such order.

1610 (c) An order, denial or decree of a court of
1611 probate shall not be invalid because of the
1612 disqualification of the judge unless appeal
1613 therefrom is taken within thirty days.

1614 Sec. 26. Section 45a-343 of the general
1615 statutes is repealed and the following is
1616 substituted in lieu thereof:

1617 [(a) Within sixty days after the receipt of
1618 such inventory and appraisal by the court any
1619 interested party may file in the court a statement
1620 in writing setting forth in detail such objections
1621 as he may have to the acceptance of the inventory
1622 or appraisal.]

1623 (a) ANY INTERESTED PARTY MAY FILE WITH THE
1624 PROBATE COURT HAVING JURISDICTION A WRITTEN
1625 OBJECTION TO THE INVENTORY OR APPRAISAL, WHICH
1626 SHALL SET FORTH THE BASIS OF THE OBJECTION. SUCH
1627 OBJECTION MAY BE FILED AT ANY TIME BETWEEN THE
1628 FILING OF THE INVENTORY AND THE HEARING ON THE
1629 FIDUCIARY'S FINAL ACCOUNT.

1630 (b) Upon the filing of the objections, the
1631 court shall order a hearing on the acceptance of
1632 the inventory and appraisal to be had within sixty
1633 days and not less than fifteen days after the
1634 filing of the objections. The court shall cause
1635 notice of the time and place of the hearing to be
1636 forthwith given to the fiduciary of the estate and
1637 to each party in interest.

1638 (c) The court, upon such hearing, shall hear
1639 the objections and may order the fiduciary to
1640 amend the inventory or appraisal in any way that
1641 it finds proper, and may accept the same as
1642 amended.

1643 Sec. 27. Section 45a-436 of the general
1644 statutes is repealed and the following is
1645 substituted in lieu thereof:

1646 (a) On the death of a spouse, the surviving
1647 spouse may elect, as provided in subsection (c) of
1648 this section, to take a statutory share of the

1649 real and personal property passing under the will
1650 of the deceased spouse. The "statutory share"
1651 means a life estate of one-third in value of all
1652 the property passing under the will, real and
1653 personal, legally or equitably owned by the
1654 deceased spouse at the time of his or her death,
1655 after the payment of all debts and charges against
1656 the estate. The right to such third shall not be
1657 defeated by any disposition of the property by
1658 will to other parties.

1659 (b) If the deceased spouse has by will
1660 devised or bequeathed a portion of his or her
1661 property to his or her surviving spouse, such
1662 provision shall be taken to be in lieu of the
1663 statutory share unless the contrary is expressly
1664 stated in the will or clearly appears therein;
1665 but, in any such case, the surviving spouse may
1666 elect to take the statutory share in lieu of the
1667 provision of the will.

1668 (c) The surviving spouse, or the conservator
1669 or guardian of the estate of the surviving spouse,
1670 with the approval, after [public] notice and
1671 hearing, of the court of probate by which such
1672 conservator or guardian was appointed, shall, not
1673 later than one hundred fifty days from the date of
1674 the appointment of the first fiduciary, as defined
1675 in section 45a-353, file a notice, in writing, of
1676 his or her intention to take the statutory share
1677 with the court of probate before which the estate
1678 is in settlement, and if such notice is not so
1679 filed, the surviving spouse shall be barred of
1680 such statutory share.

1681 (d) If the court of probate has allowed a
1682 support allowance under section 45a-320 from the
1683 deceased spouse's estate for support of the
1684 surviving spouse and for the support of his or her
1685 family, the surviving spouse shall not take his or
1686 her statutory share until the expiration of the
1687 time for which the support allowance is made.

1688 (e) The statutory share shall be set out by
1689 the fiduciary charged with the administration of
1690 the estate or, in the discretion of the probate
1691 court on its own motion or on application by any
1692 interested person, by distributors appointed by
1693 the court of probate. The statutory share may
1694 consist of personal property or real property, or
1695 both, according to the judgment of the fiduciary
1696 or distributors.

1697 (f) The provisions of this section with
1698 regard to the statutory share of the surviving
1699 spouse in the property of the deceased spouse
1700 shall not apply to any case in which, by written
1701 contract made before or after marriage, either
1702 party has received from the other what was
1703 intended as a provision in lieu of the statutory
1704 share.

1705 (g) A surviving husband or wife shall not be
1706 entitled to a statutory share, as provided in
1707 subsection (a) of this section, or an intestate
1708 share, as provided in section 45a-437, in the
1709 property of the other if such surviving spouse,
1710 without sufficient cause, abandoned the other and
1711 continued such abandonment to the time of the
1712 other's death.

1713 (h) The provisions of this section shall
1714 apply to estates of all persons dying on or after
1715 July 1, 1985.

1716 Sec. 28. This act shall take effect October
1717 1, 1998, except that section 1 shall take effect
1718 January 1, 1999.

1719 STATEMENT OF LEGISLATIVE COMMISSIONERS: Sections 9
1720 and 10 were combined for accuracy.

1721 JUD COMMITTEE VOTE: YEA 38 NAY 0 JFS-LCO

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

* * * * *

FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5468

STATE IMPACT	Cost, see explanation below
MUNICIPAL IMPACT	None
STATE AGENCY(S)	Probate Courts (Judicial Department)

EXPLANATION OF ESTIMATES:

STATE IMPACT: Passage of the bill would result in additional cost to the Probate Court Administration Fund (PCAF). The modification of the assessment formula by which probate judges pay assessments to the Office of Probate Court Administrator, as outlined in the bill, would result in pay increases for the probate judges. There are 131 probate judges in the state, and under the bill, probate judges would receive an estimated 15-20% increase at a total cost of \$600,000 - \$800,000.

The PCAF, which supports and pays for the statewide activities of the entire probate court system, has a current fund balance of approximately \$10.5 million (non-General Fund account). It should be noted that \$500,000 in new funding has been included within SHB 5021 (the Revised SFY 1998-99 Appropriations Act, as favorably reported by the Appropriations Committee) for the PCAF due to the phase-out of the succession tax and the Fund's resulting inability to sustain itself.

The bill authorizes concurrent jurisdiction for the emancipation of minors and the reformation of wills in the Superior Court and the Probate Courts and transfers exclusive jurisdiction of the civil commitment of drug- or alcohol-dependent people to the Probate Courts.

According to the Judicial Department, there are 150 cases annually involving emancipation of minors and less than 100 cases annually that involve reformation and civil commitment. It is anticipated that these jurisdictional adjustments will result in caseload reductions and savings to the Judicial Department.

* * * * *

OLR BILL ANALYSIS

SHB 5468

AN ACT CONCERNING PROBATE COURTS

SUMMARY: This bill makes jurisdictional, financial, and procedural changes to the probate laws. Specifically, it:

1. transfers from the Superior to probate court jurisdiction over civil commitment of drug- or alcohol-dependent people;
2. establishes a new formula for allocating the court's revenue as compensation to probate court judges;
3. gives the probate court jurisdiction, concurrent with Superior Court, to hear emancipation cases;
4. gives the probate court jurisdiction, concurrent with Superior Court, to apply the Doctrine of Cypres (approximation or reformation) in matters pending before it;
5. gives probate courts that already receive reports on cemetery funds jurisdiction over actions for an accounting of such funds but provides that jurisdiction is not continuing;
6. allows the court to limit conservators' powers and duties;
7. increases from \$100 to \$250 the maximum daily pay for each judge on a three-judge probate court panel, other than the judge in whose

district the matter is being heard;

8. treats probate court judges like other state judges by exempting them from jury duty;
9. gives fiduciaries of decedent estates discretion, in certain cases, to provide the court with statements in lieu of final accountings;
10. eliminates a requirement for the court to give individual instead of public notice in certain cases and extends the requirements for appealing a probate court decision to people who had, but did not exercise, a right to participate in a hearing;
11. authorizes the court to give interested parties a notice of their right to a hearing; and
12. makes technical changes.

EFFECTIVE DATE: October 1, 1998, except the provision establishing a new probate court judge compensation formula is effective January 1, 1999.

FURTHER EXPLANATION

Civil Commitment of Drug- or Alcohol-Dependent People (Sec. 14)

The bill gives the probate court exclusive jurisdiction over the civil commitment of drug- or alcohol-dependent people. The procedure for commitment under the bill is similar to the one the Superior Court currently follows to commit such people. But unlike Superior Court, probate court proceedings are informal and rules of evidence do not apply.

Emergency Commitment and Treatment (Sec. 14)

Under current law, a drug- or alcohol-dependent person may be civilly committed on an emergency basis if he is (1) intoxicated when an application for commitment is completed and dangerous to himself or others while not committed, (2) in need of treatment for life-threatening withdrawal symptoms, or (3)

incapacitated by alcohol. The bill extends from five to 10 business days after the application is filed the maximum period a person can be committed. It eliminates a requirement for the treatment facility administrator to give the committed person (respondent) a (1) copy of the commitment application and a written explanation of his right to counsel within 24 hours after commitment and (2) reasonable opportunity to consult with counsel.

Involuntary Civil Commitment of Drug- or Alcohol-Dependent People (Sec. 15)

Application. The bill requires commitment applications to be filed in the probate court in the district, rather than in the Superior Court of the geographical area, where the respondent resides or is located when the application is filed. But if a respondent is in a treatment facility, it requires applicants to file applications in the probate court for the district where the facility is located.

The law allows a spouse, relative, or conservator to apply for involuntary commitment. The bill requires them to state on the application that they have arranged for treatment in a facility and attach a statement to that effect from the facility.

The bill requires applicants to provide medical testimony and all respondents to be examined by a physician who certifies that he conducted the examination. It eliminates:

1. a requirement for respondents to be informed of their right to be examined by a licensed physician of their choice and to have the court pay for the physician if they cannot afford one, and
2. a requirement for the court to order a physician who examines the respondent to appear in court if the respondent indicates that he wants to cross examine him.

In cases where the respondent refuses to be examined by a physician, the bill authorizes the court to order the examination if it finds allegations in the complaint are true.

It eliminates a requirement for applicants who are not the certifying physicians to include in their applications the names of witnesses believed to have knowledge of the material facts of the allegations stated in the application. The applicant continues to be required to include the names and addresses of the respondent's physicians.

Notice. The bill extends from five to 10 business days after the application is filed the latest date for the court to hold a hearing on it. It eliminates a requirement for the court to serve personal notice of the hearing on all respondents, their next of kin (other than the applicant), the parents or guardians of a minor respondent, the administrator of a facility providing the respondent with emergency treatment, the administrator of the facility where the respondent is going to be committed, and any other person the court believes advisable. The court is, instead, required to serve personal notice only on respondents living outside of a treatment facility. It may have all others served by regular mail.

The notice must inform the respondent of his right to (1) be present at the hearing, (2) have counsel appointed if he is indigent, and (3) cross-examine witnesses. Under current law, the Superior Court is only required to notify the respondent of the time and place of the hearing.

Hearing. The bill requires the court to appoint counsel for respondents who are unable to pay for their own and who have not refused to accept such an appointment. The court must select counsel from the list of attorneys licensed in the state who submit their names to the probate court administrator. The bill eliminates the court's authority to appoint counsel for indigent petitioners who are related or married to, or guardians of, the respondent. It also eliminates the court's duty to (1) appoint a guardian ad litem to represent a respondent who does not appear at a hearing and (2) examine the respondent in open court, or if absent, in any private setting the court determines.

Before the commitment hearing, the bill requires the respondent or his counsel to be given access to all records, including the hospital records of a

hospitalized respondent. The hospital must make records relating to the respondent's condition available at the hearing for his use. The respondent's records are admissible at the request of any party or the court in any confinement or release hearing. The bill provides that the laws on psychiatrist and patient confidentiality do not apply to its provisions. It also provides that its provisions do not prevent timely objections to the admissibility of evidence in accordance with the rules of civil procedure.

The bill requires the court to record the hearing, transcribe it if an appeal is filed, and provide a free transcript to appellants the court determines unable to pay. It requires the Judicial Department to bear the costs of free transcripts.

Commitment. As is currently the case with civil commitments authorized by the Superior Court, the probate court may order a respondent committed for 30 to 180 days. At the end of this period, the respondent must be automatically discharged unless the facility administrator files an application for, and the court orders, recommitment.

Recommitment Applications and Notices. The bill requires treatment facility administrators to include statements in their applications for recommitment that the respondent is likely to benefit from more treatment. It also requires courts to make such a finding when ordering a respondent recommitted. The administrator continues to have to allege, and the court to find, that the respondent is (1) likely to become dangerous to himself or others when intoxicated; (2) likely to become gravely disabled; and (3) if in an outpatient program, not fully participating in treatment.

The bill requires notice of the recommitment hearing to be sent to all parties by regular mail, instead of being personally delivered by a civil process server. It requires both, instead of one, of a minor respondent's parents to be served.

Temporary Leave. The bill allows a treatment facility administrator to permit a person committed to the facility to leave temporarily with his conservator. The administrator may already allow him to leave alone

or with his guardian, relative, or friend.

Release. Under current law, a treatment facility administrator, on the advice of the facility's medical officer, must discharge a respondent who is no longer drug- or alcohol-dependent or who is dependent, but will not benefit from additional treatment. If a respondent who meets these criteria is not discharged, the law allows him or any responsible person to apply to obtain the respondent's release. The bill eliminates the third party's authority, but continues to allow the respondent to try to gain his own release. The bill extends from seven to 10 business days after an application is filed the latest date on which a hearing must be held.

The bill requires the court to cause the applicant, the treatment facility administrator, and any other person the court deems advisable to be given reasonable notice of the applicant's right to be present at the hearing, present evidence, retain counsel or have it provided, and cross examine witnesses. (The bill does not state when the notice must be served or the method of service.) Currently, notice must be personally served three days before the hearing.

Commitment, Recommitment, and Release Application Costs (Sec.15 (n))

The bill requires applicants or, if indigent, the Department of Mental Health and Addiction Services, to pay commitment, recommitment, and release application expenses. The department must establish payment rates. Currently, the Judicial Department pays for counsel. The bill requires the Judicial Department to continue paying if its budget contains funds for this purpose. Otherwise, it requires the probate court administrator to establish attorney's fees and pay them from the Probate Court Administration Fund, but in no event may the fund be used to obtain the release of the same respondent more than twice in one year.

Probate Court Judge Compensation (Sec. 1)

Currently, probate judges' compensation is based on the total income derived from court fees minus (1) assessments to the Probate Court Administration Fund and (2) court expenses such as employee salaries and

supplies. The formula for determining each court's assessment is based solely on the revenue the court takes in. There is a separate formula for high volume courts. The bill changes the formulas to allow for a reallocation of revenue.

Under the new formula, compensation for judges in medium courts is determined by multiplying the minimum amount the judge would have received if he were in a high volume court by specified percentages, which increase assessments to the Probate Court Administration Fund as the court's revenue increases (see COMMENT). The net revenue (amount remaining after assessment) is used to compensate judges if it falls with a certain range. The bill prohibits any judge from receiving more than \$72, or less than \$15, per case based on a weighted workload.

The bill requires the probate court administrator, through regulation, to assess a weight for each type of case handled. The weight of each case would vary depending on its complexity. For example, a simple name change would be weighted at less than cases involving civil commitment of a person with mental illness or termination of parental rights.

The bill safeguards against instant salary reductions resulting from use of the new formula by providing that no judge will receive compensation that is less than his average salary over the last three years.

Emancipation of Minors (Secs. 8 - 12)

Petitions and Notice. As with petitions for emancipation of minors in Superior Court, the bill requires petitioners who seek emancipation in probate court to file their petitions in the district where the minor or his parents or guardian resides. When the petition is filed, the bill requires the court to schedule a hearing within 30 days. The court must have a sheriff, deputy sheriff, constable, or indifferent person serve the minor and his parent, other than the petitioner, with a citation and notice no later than one week before the hearing. The court may order petitioning parents served by certified mail and may notify the Department of Families and Children (DCF) commissioner and others interested in the minor by any means it chooses. Under current law, the Superior

Court may cause interested parties to be served personally or by first class or certified mail

Investigations and Appointment of Counsel. The bill requires the probate court to ask the DCF commissioner to conduct investigations, unless they are waived for cause, and appoint an attorney to represent the minor. The minor must pay the attorney's fee unless he files an affidavit demonstrating his inability to pay. If the minor cannot pay, the bill requires the Judicial Department to establish and pay reasonable fees. If department funds are unavailable, the bill requires the probate court administrator to establish reasonable fees and pay them from the Probate Court Administration Fund. Under current law, the Superior Court may require anyone to conduct an investigation, including a probation officer or the DCF commissioner. The Superior Court currently appoints counsel for indigent minors.

Order of Emancipation. Like the Superior Court, the bill authorizes the probate court to enter an emancipation order if it finds that:

1. the minor is married;
2. he is active in the U.S. military;
3. he is living apart from his parents and managing his own financial affairs; or
4. emancipation is in his best interests or that of his parents, guardian, or minor child.

The bill allows people aggrieved by a probate court decision on emancipation to appeal to the Superior Court.

Doctrine of Cypres (Secs. 4-7)

The bill gives the probate court authority to apply the Doctrine of Cypres in wills, trusts, or inter vivos trusts pending before the court when an issue arises regarding the decedent's or trustee's intent. This authority allows the probate court to carry out the decedent's or trustee's original intent when unforeseen changes, including changes to allowable marital or charitable deductions under the Internal Revenue Code

would have thwarted the intent. The probate court's jurisdiction to reform a document is concurrent with that of the Superior Court. The bill gives the petitioner the right to choose either court. Under current law, when a matter is before the probate court and issues requiring approximation are raised, the probate court must continue its proceedings until the matter is referred to, and disposed of by, the Superior Court.

Cemetery Associations (Sec. 13)

Under current law, a cemetery association may place its surplus revenue in a perpetual fund. The fund, together with any donations the association or an ecclesiastical society accepts, is controlled, managed, and supervised by a three-person committee it elects. The committee's treasurer must annually report to the probate court how the fund is invested and its income, expenditures, status, and condition. The bill allows any interested person to petition the court for an accounting by the treasurer and authorizes the court to require an accounting for any period it determines reasonable and necessary based on its findings. It requires courts that order an accounting to determine the parties' rights subject to appeal.

After notice to all interested parties and a hearing, the bill authorizes the court to require an accounting if it finds (1) the petitioner has sufficient interest in the fund to entitle him to an accounting, (2) that an accounting is necessary, and (3) that the petition was not filed to harass the treasurer. The court may provide notice to any parties and in any manner it deems appropriate.

Powers and Duties of Conservators (Sec. 18)

The bill allows the probate court to limit the powers and duties of conservators of the person or the estate if to do so would be in the ward's (person for whom a conservator is appointed) best interest. When determining whether to impose limitations, the court must consider (1) the ward's abilities; (2) the prior appointment of any attorney-in-fact, health care agent, trustee, or other fiduciary; (3) any support services otherwise available to the ward; and (4) any other relevant evidence. The bill authorizes the court to

modify its order concerning a conservator's powers and duties upon any change in circumstances. Under current law, the court does not have the discretion to tailor a conservator's duties or powers to accommodate a ward who needs limited assistance. Once the court appoints a conservator that person carries out all of the ward's personal or financial affairs.

Fiduciary Accountings (Secs. 24 and 25)

Under current law, the probate court can allow fiduciaries to file a sworn statement in lieu of an accounting and release them from their duties when they are (1) the sole beneficiary of a decedent's estate or (2) the sole beneficiaries of a decedent's residual estate and all other bequests specifically identify the property to be distributed. The statement must provide, among other things, that debts, funeral expenses, taxes, and administrative expenses have been paid and that all bequests and devises have been distributed. The fiduciaries must include all receipts from the beneficiaries indicating that they received their bequests.

The bill allows more fiduciaries to file statements in lieu of an accounting and simplifies the process by eliminating the requirement that:

1. fiduciaries be the sole beneficiaries and instead allows them to be among the beneficiaries of a decedent's residual estate;
2. they state all bequests have been distributed and instead allows them to state that bequests will be distributed;
3. they provide proof of distribution in the form or receipts.

The bill requires the statement to reflect that the fiduciaries provided a copy of the statement to everyone with a specific bequest. It allows beneficiaries with specific bequests to contest the statement's accuracy or contents by requesting a full formal accounting or petitioning the court for a hearing before statement approval is granted. It authorizes the court, when cause is shown, to refuse to accept the statement and require an accounting.

Notice and Final Hearing on Account. The bill authorizes the court to approve a final account submitted by an executor or administrator of a decedent's estate without notice and a hearing if all parties interested in the estate sign and file a written waiver of such notice.

Inventory (Sec. 27)

Under current law, executors and administrators of a decedent's estate must file with the probate court an inventory and appraisal of all property, except real property located out of state, owned by a deceased insolvent debtor. Interested parties have 60 days after such filing to object to the court's acceptance of these documents. The bill requires the parties to state the basis for their objection. It removes the 60-day deadline for filing the objection and allows the parties to file it at any time between the date of the filing and the hearing on the final account.

Procedural Changes to the Probate Laws (Secs. 21- 23, 26, and 28)

Notice. The bill eliminates a requirement for the court to give public notice before authorizing (1) fiduciaries to settle claims against the estates of people they represent, (2) fiduciaries to sell or mortgage real estate that they hold in their representative capacity, (3) a conservator of the estate or a surviving spouse to take the statutory share of a decedent's estate, instead of that devised or bequeathed, or (4) a person other than a fiduciary to sell all or part of the personal property that the fiduciary holds title to in his representative capacity. "Public notice" refers to that given to an entire community and typically published in a newspaper of general circulation. The court still has to give interested parties individual notice in each of these cases.

Appealing Probate Court Decisions. Under current law, parties who are aggrieved by a probate court decree and who were present or had a legal notice to be present must file an appeal within 30 days of the decree or order. The bill extends this requirement to people who are notified of their right to request a hearing and those who have filed a written waiver of that right. It

treats parties who are not given notice of their right to request a hearing like people who currently receive no notice to be present and are not present by giving them a year to file an appeal in most cases. As under current law an appeal from an adoption decree or a decree terminating parental rights must be filed within 90 days.

BACKGROUND

Probate Court's Jurisdiction

The probate court has jurisdiction over such matters as the admission of wills, administration of estates, guardianships, name changes, fiduciary accounts, and civil commitments of people with mental illness.

High Volume Courts

A high volume court is a probate court in a district that has an estimated population of at least 70,000 for the calendar year preceding the probate judge's election or any year during his term.

Definitions

Doctrine of Cypres. Black's Law Dictionary, Sixth Edition, defines "cypres" as a rule of construction that allows the drafter of an equitable instrument's intention to be carried out as near as may be when it would otherwise be impossible or illegal to give it literal effect.

Conservator of the Person. A person, public official, or corporation, other than a hospital or nursing home, appointed by the probate court to supervise the personal affairs of a person who asks or who the court finds incapable of managing his own affairs.

Conservator of the Estate. The same people and entities as a conservator of the person but who supervise the financial affairs of people incapable of managing their own.

Fiduciary. A person with the legal authority to act on behalf of another. For example, an executor, administrator, trustee, or guardian.

COMMENT**Probate Judge Compensation Formula**

The new formula bases the compensation for judges in medium courts on the compensation that high volume court judges receive. The law requires the compensation for high volume court judges to be based on the formula used to determine compensation for medium court judges. The circular nature of the formula appears to make it unworkable. Although the formula appears to be unworkable, in practice the compensation of a high volume court is based on 75% of Superior Court judges' salaries. Thus, the formula works given the court's practice.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 38 Nay 0